IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
FRIDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE B.PRAKASH RAO
WRIT PETITION NO : 17385 of 1989

Between:
Sharad B.Pitti

..... PETITIONER

AND

1. The State of Andhra Pradesh,
   rep by its Secretary, Industries, Hyderabad.
2. Bharat Petroleum Corporation Ltd.,
   7,Kodam Bakkam, High Road,
   Madras-600034.

....RESPONDENTs

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records of the Ist respondent in G.O.Rt.No.1248, dated 18.10.1989 and quash the same by issuing a writ in the nature of Certiorari or any other appropriate writ or direction or order which this honourable Court deems fit in the circumstances of the case.

For the Petitioner: MR.L.PRABHAKAR REDDY

For petitioner no.1 : G.P.for Land Acquisition

For the Respondent No.2: MR.G.S.R.ANJANEYALU

The Court Made the Following :

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ORDER:

Heard the learned counsel for the petitioner and also the learned Government Pleader for Land Acquisition.

The petitioner herein, who claims to be the owner of the land admeasuring 1131.11 square metres in T.S.No.104/B/3, situated at Sardar Patel Road, Bholakpur, Secunderabad, filed this writ petition, *inter alia,* challenging the impugned G.O.Rt.No.1248, dated 18.10.1989 acquiring the subject land by second respondent.

The main grievance of the petitioner is that originally the lease was given to second respondent, which expired on 31.12.1981. Thereafter, the petitioner had refused to give any extension and therefore, second respondent has taken recourse to acquisition proceedings through first respondent herein, which has resulted in issuance of the impugned G.O. Notification under Section 4(1) of the Land Acquisition Act was issued on 18.10.1989, followed by notice of enquiry under Section 5A of the Act which was issued on 31.10.1989.

The case of the petitioner is that having regard to the long lapse of time and especially when the lease is not subsisting, the very acquisition itself is bad. That apart, the acquisition proceedings by second respondent herein without following the procedure under Chapter 7 of the Land Acquisition Act is also bad. In support of his case, petitioner placed reliance on **JAGGIRANNA & OTHERS vs GOVERNMENT OF A.P.**[1] wherein this Court has held that any

acquisition for the purpose of the company mentioned in Section 40(1)(a) of the Land Acquisition Act, without following procedure as contemplated therein, is not valid.

Having heard the counsel on either side and also on perusing the material on record, it is seen that admittedly enquiry under Section 5A of the Act is contemplated and the petitioner has already received a notice. In response thereto, the petitioner submits that he has already filed a detailed representation, consisting of various objections, including as to the validity of acquisition for the purpose of company without following procedure as contemplated. These are all matters which are to be gone into in the said enquiry. After appreciation there of it is always open to the authority to come to conclusion and give a finding thereon.

In the circumstances, the writ petition is disposed of permitting the petitioner to raise all such questions by way of further representation or such other material, which he wants to place reliance and on filing of which the authority shall consider all the said objections and dispose of the same, within a period of three months from the date of receipt of a copy of this order, in accordance with law, after giving notice and opportunity to both the parties.

Dt.18.6.2004.
mdaa/stv.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copy to:

1. The State of Andhra Pradesh,

rep by its Secretary, Industries, Hyderabad.
2. Bharat Petroleum Corporation Ltd.,
7,Kodam Bakkam, High Road,
Madras-600034.
3. Two C.Cs.to GP for Land Acquisition, High Court of A.P.,
High Court Buildings, Hyderabad (OUT)
4. Two C.D.Copies.

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[1] 1979(2) ALT NRC 31